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- Bloomberg Law 02/08; BASF, P&G, Others Asking EPA to Restore Safer Chemicals Program
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- RFD TV 02/08; Federal dicamba lawsuits are on hold for 60 days

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- Competitive Enterprise Institute 02/05; Bayer Spends Billions to Save Essential Tool for Farmers
- The National Law Review 02/05; EPA PFAS Regulations: "PFAS A Priority" Says Incoming Administrator

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Regan to Rebuild the EPA, Handle PFAS, Improve 'Environmental Justice'

JENNIFER NASTU, Environment & Energy Leader

https://www.environmentalleader.com/2021/02/regan-to-focus-on-rebuilding-the-epa-improving-environmental-justice/

During his Feb. 3 confirmation hearing, EPA administrator nominee Michael S. Regan focused on a handful of issues, including his plans to rebuild the agency and to focus on environmental justice. His plans include the appointment of new justice officials in each of its regulatory offices who would focus on air, water and land pollution. A fourth official in each office would be responsible for chemical safety.

Regan also plans to appoint an environmental justice adviser to the EPA administrator, he told the Senate Environment and Public Works Committee.

One area of priority in terms of chemicals, Regan said, will be per- and polyfluoroalkyl substances (PFAS). In his job as head of the North Carolina Department of Environmental Quality, Regan has dealt with PFAS-related issues including tainted drinking water and cleanup by a chemical maker, writes Chemical & Engineering News. Regan wants to set limits on PFAS in drinking water and wants the EPA to establish thresholds on allowable industrial releases of these chemicals.

Biofuels is another area expected to be a focus for Regan's EPA. Farm state senators in both parties have fought with the EPA over its handling of the renewable fuel standard. "The biofuel mandate often pits powerful interests like oil and agriculture against each other," writes E&E News.

President Joe Biden jumped immediately into the climate fray on day one of his job, rejoining the Paris Climate Agreement and announcing plans to eliminate carbon dioxide emissions from the grid by 2035 and ensure the country is on a solid path to net-zero emissions by 2050.

Climate Change: A Biden vs Trump scorecard

Oliver Milman, Alvin Chang, The Bulletin

https://thebulletin.org/2021/02/climate-change-a-biden-vs-trump-scorecard/

Faced with an unfolding climate crisis that is fueling more powerful storms, enormous wildfires, and scorching heatwaves in the United States, Donald Trump unapologetically set about dismantling policies to cut planet-

heating emissions, mocked or ignored climate science, and threw open vast tracts of American land and water to fossil fuel development.

The systematic reversals in environmental protections pose a challenge to Joe Biden, Trump's successor as US president, who has called climate change the "existential threat of our time." Biden has set about the task of undoing Trump's legacy with hyperactive zeal, through a flurry of executive actions. In all, about 100 Trump-era environmental policies are being targeted, although some may take several years to reverse. Here's how Biden is doing it.

1) Protecting endangered animals and their habitats.

What Trump did: In an attempt to offer up more area for oil and gas drilling, which the industry said would be a boon for jobs, the Trump administration weakened key interpretations of the Endangered Species Act, making it harder to protect endangered species and their habitats. Rules banning the killing of migratory birds were loosened, companies were allowed to "incidentally" kill animals as they went about drilling, and creatures suffering large population declines, such as the monarch butterfly, were denied endangered species listing.

What Biden is doing: Biden is reviewing, and will probably reverse, Trump's wildlife rollbacks, such as those involving the protection of migratory birds and the application of endangered species rules. Other planned reforms should aid species facing what scientists say is the Earth's sixth mass extinction event, such as clean water rules that safeguard streams and wetlands, environmental reviews of potentially destructive projects and the halting of fossil fuel development in places such as the Arctic national wildlife refuge, a vital, pristine wilderness for birds, caribou and other creatures.

2) Protecting land that was opened up to drilling

What Trump did: Trump immediately approved the Keystone XL pipeline and the Dakota Access pipeline, two contentious projects moving vast amounts of oil that were cheered by industry but enraged various farming, climate, and Native American groups. The former president opened up almost all of the federally managed land and ocean for oil and gas drilling—including, for the first time, Arctic waters. He also shrank two national monuments in Utah: Bears Ears and Grand Staircase-Escalante.

What Biden can do: Biden has halted oil and gas leasing on public lands, opening up a pathway for a total ban, and is set to reverse the shrinking of the protected national monuments. The new administration has set a goal of protecting 30 percent of America's land and oceans by 2030 and has a plan to create a "civilian climate corps" that would work to restore degraded landscapes and waterways. The Keystone pipeline has been blocked, with other similar projects now looking highly uncertain.

3) Strengthening rules on air quality and carbon emissions

What Trump did: Under Trump, the United States stalled or weakened various measures aimed at curbing greenhouse gas emissions and direct air pollutants that cause various respiratory and heart conditions. Pollution standards for cars and trucks were scaled back and California was barred from enacting tougher rules. Also axed were rules to reduce leaks of methane, a potent warming gas, and standards to limit pollution from airplanes and refrigeration. The clean power plan, the linchpin Barack Obama-era plan to reduce carbon emissions from power plants, was scrapped and replaced with a weaker alternative.

What Biden can do: Biden is working, in concert with car manufacturers, on a new, higher standard of fuel efficiency for vehicles. He has ordered his administration to help accelerate the rollout of clean energy such as solar and wind to shift the United States away [...]

EPA Signals Potential Change as Some Chemical Rules Take Effect

Pat Rizzuto, Bloomberg Law

https://news.bloomberglaw.com/environment-and-energy/epa-signals-potential-change-as-some-chemical-rules-take-effect?usertype=External&bwid=00000177-73f9-d8b5-a97f-7ffffa230001&qid=7055309&cti=FGOV&uc=1320000080&et=NEWSLETTER&emc=neve_nl%3A42&source=newsletter&item=headline®ion=digest&access-ticket=eyJjdHh0IjoiTkVWRSIsImlkIjoiMDAwMDAxNzctNzNmOS1kOGI1LWE5N2YtN2ZmZmZhMjMwMDAxIiwic2lnIjoicXVITjU0ZW1EQ0NKOHVsQm03Qi84cEFtRGo4PSIsInRpbWUiOiIxNjEyNzg1NzAyIiwidXVpZCI6ImFkTURNQkErME1Ma0VoOUZzSmFzZWc9PVFYN2xxVTE1dHJrM2lYN2s4cStoVXc9PSIsInYiOiIxIn0%3D

Six final Trump-era rules on toxic chemicals and 10 rule-triggering conclusions about potential chemical risks will go under the EPA's microscope, the agency announced Friday.

The Environmental Protection Agency's "Updates on Chemical Safety Action" alert said the rules and risk conclusions "will undergo review (and, as necessary, revisions) to ensure they are protective of human health and the environment." The announcement came the same day that five of the six final chemical rules became effective.

What potential revisions or actions are under consideration is unclear. "We don't have anything more to provide beyond this update at this time," Press Secretary Nick Conger said in an email.

The rules effective Friday restrict five chemicals that are problematic because of their toxicity, long environmental lifespans, propensity to build up in the food chain. They are: pentachlorothiophenol (PCTP), used to make rubber more pliable; 2,4,6-tris(tert-butyl)phenol(2,4,6-TTBP) used as an additive in motor oils, hexachlorobutadiene (HCBD), an unintentional byproduct of chlorinated solvent production; and two flame retardants: decabromodiphenyl ether, or DecaBDE; phenol, isopropylated phosphate (3:1), or PIP (3:1).

The sixth rule, effective March 8, lowered lead-dust levels but not to levels that some scientists said they should be. The levels determine whether people can safely reoccupy their homes and childcare-facilities after lead-based paint is removed.

The 10 final risk conclusions identified unreasonable risks for asbestos, pigment violet 29, a group of three flame retardants, and seven solvents. Yet the agency's science advisers frequently said EPA's analyses underestimated the harm the chemicals could do to people and the environment.

BASF, P&G, Others Asking EPA to Restore Safer Chemicals Program

Pat Rizzuto, Bloomberg Law

https://news.bloomberglaw.com/environment-and-energy/basf-p-g-others-asking-epa-to-restore-safer-chemicals-program?context=search&index=2

Nearly 60 chemical manufacturers, trade associations, state and local governments, and nonprofit groups are asking the EPA to restore its program that encourages the design and use of safer chemicals.

The coalition—which includes BASF SE, International Flavors & Fragrances Inc., Procter & Gamble Co., and

Reckitt Benckiser Group PLC—on Feb. 5 sent EPA acting Administrator Jane Nishida a letter, obtained by Bloomberg Law Monday, voicing "strong support" for the agency's Safer Choice Program "as well as our concern for its long-term viability."

The Environmental Protection Agency's program allows companies to get an agency-approved label if their products are proven to meet stringent health and environmental safety criteria. That label is used by consumers, and also to guide purchases made for schools and other institutions.

As part of that program, the EPA maintains a Safer Chemicals Ingredients List, or SCIL, consisting of chemicals that are among the safest available for their function, such as breaking down oil.

'Resource-Intensive' Effort
"Chemical manufacturers have invested in the difficult task of developing safer chemicals," the letter said. "Brand owners and product manufacturers have invested in Safer Choice by undertaking the similarly resource-intensive effort to reformulate products using the SCIL to obtain Safer Choice certification."

This "unique and valuable program" had as may as 13 full-time employees, but since last October that number has fallen to four, according to the coalition's letter. Throughout the Trump administration, the president's budget sought to eliminate Safer Choice and the EPA transferred staff from it.

"We urge you to fully restore the Safer Choice Program—a broadly supported and impactful recognition program that helps drive a market for safer chemicals and products," wrote the 57-member coalition, which also included Washington state's Department of Health, the Minnesota Pollution Control Agency, and the Oregon Association of Clean Water Agencies.

Neither BASF, International Flavors & Fragrances, Procter & Gamble, nor Reckitt Benckiser responded immediately for details on what prompted the letter. Nor did the EPA immediately respond to questions on its plans for Safer Choice.

EPA confirms review of PBT rules, TSCA evaluations

NA, Chemical Watch

https://chemicalwatch.com/212876/epa-confirms-review-of-pbt-rules-tsca-evaluations

The US EPA has confirmed that it is reviewing risk management rules for five 'fast-tracked' persistent, bioaccumulative and toxic (PBT) substances, as well as all of the first ten finalised TSCA risk evaluations.

Shortly after he took office last month, President Biden ordered the EPA and other federal agencies to review actions taken over the last four years, including the completed risk evaluation for methylene chloride and the rules for the five PBTs – decaBDE, PIP (3:1), 2,4,6-TTBP, PCTP and HCBD.

"EPA will follow the science and law, and review the agency's actions issued under the previous administration, and take any needed steps to ensure that they protect human health and the environment ", the agency said on 5 February.

The EPA released the PBT risk management rules, which put in place a range of restrictions on manufacturing, importing and processing, in December. They took effect on 5 February.

The agency said it is "aware of concerns, including implementation issues " with the rules, adding that it may

consider taking additional measures "that build upon the steps taken thus far ".

Risk evaluations
The ten finalised TSCA risk evaluations – released over the previous eight months – do not come with immediate regulatory requirements. But the agency is mandated to propose risk management rules within one year of publishing each risk assessment.

That gives the agency until June of this year to propose a risk management rule for methylene chloride, the first of the ten substances to see a completed risk evaluation. Proposals for the other nine substances will then be due over the following seven months, until 21 January 2022, when a proposed rule is due for pigment violet 29 (PV29) – the last risk evaluation published.

Outreach and engagement efforts on the risk management process for the first ten substances will continue during the review process, the EPA said. It did not say whether the reviews would affect the deadline for the risk management proposals.

"The agency will keep stakeholders updated as decisions are made and next steps are determined, " it said.

In addition to reviews of the risk evaluations and the PBT rules, the EPA said it is also looking at the final rule for dust lead post-abatement clearance levels. That rule is due to take effect on 8 March.

Ex-Hill aide in the hot seat on TSCA, forever chemicals

E.A. Crunden, E&E News

https://www.eenews.net/greenwire/2021/02/08/stories/1063724611

A veteran aide on Capitol Hill who spent years shaping chemicals legislation now finds herself in the tricky role of implementing those laws — setting her up to play a pivotal role in cracking down on "forever chemicals. "

But some say President Biden's choice for a key job in EPA's chemicals office is up to the task.

Toxics experts and reform advocates are enthusiastically hailing Michal Ilana Freedhoff as a seasoned and experienced voice already well versed in chemicals policy nuances.

"There really are very few people who bring the deep understanding of chemical safety law and chemistry that Michal Freedhoff does, " said Scott Faber, who leads the Environmental Working Group's government affairs efforts.

Multiple environmental advocates, industry members and Capitol Hill players praised Freedhoff's expertise in interviews and statements regarding her new role as principal deputy assistant administrator for the Office of Chemical Safety and Pollution Prevention. Freedhoff is also acting assistant administrator for now, giving her significant control over EPA's chemicals work.

For advocates, Freedhoff is appealing in no small part because of her science background — she holds a doctorate in physical chemistry from the University of Rochester, in addition to a bachelor's degree from McGill University in Canada. Freedhoff has also spent more than 20 years working in government, including many on Capitol Hill (Greenwire, Jan. 22).

Over the past four years, she worked as minority director of oversight for the Senate Environment and Public

Works Committee — a role that put her in a position to affect policy relating to per- and polyfluoroalkyl substances (PFAS), also known as forever chemicals, among other major chemical priorities.

But Freedhoff's time on the Hill began long before then. In 1996, she worked in the office of then-Rep. Ed Markey (D-Mass.) as a Congressional Science and Engineering fellow. She has served on the staffs of multiple House committees, including the Science Committee, the Select Committee on Energy Independence and Global Warming, the Energy and Commerce Committee, and the Natural Resources Committee.

'Michal knows TSCA'
While some in industry said they view her as "left-wing " and anticipate Freedhoff will take an aggressive approach to regulating chemicals, stakeholders with a range of perspectives praised her experience and knowledge of chemical policy.

Of particular note is her familiarity with the Toxic Substances Control Act (TSCA), as Freedhoff worked closely on the 2016 overhaul of that major chemicals law.

Richard Denison, lead scientist for the Environmental Defense Fund, pointed to Freedhoff's TSCA experience as a significant source of optimism for chemical policy reform proponents.

"Michal knows TSCA, " said Denison, praising her background "as a science and policy expert " who worked closely on TSCA reform. "She's keenly aware of how its implementation has gone these past four years. "

Markey, now a senator, also offered strong support for Freedhoff's new role in a statement.

"There is no one better to hold corporate polluters accountable and protect the public's health from toxic chemicals than Michal Freedhoff, " said Markey in an emailed statement, pointing to her "decades of experience " working on environmental protections and regulations.

Like others, Markey spoke of Freedhoff's TSCA expertise, calling the law "a very polarized piece of legislation " that his former staffer helped turn into a widely supported effort.

"Whether it was TSCA, the Safe Drinking Water Act, or legislation to address asbestos in schools, Michal knows how to engage scientists, lawmakers, stakeholders, and advocates to craft policy that makes our communities healthier and safer, " the senator said.

Rich Gold, a former EPA staffer and Superfund expert who now works for the firm Holland & Knight LLP, described Freedhoff as someone able to swiftly get up to speed on complex policy areas. "She can dig [...]

Group Petitions for Review of EPA's Risk Evaluation for Asbestos

Lisa Whitley Coleman, EHS Daily Advisor

https://ehsdailyadvisor.blr.com/2021/02/group-petitions-for-review-of-epas-risk-evaluation-for-asbestos/

A group of public health organizations and asbestos scientists led by the Asbestos Disease Awareness Organization (ADAO) petitioned the 9th Circuit Court of Appeals for administrative review of the EPA final risk evaluation for asbestos on January 26, 2021. The groups also sent the EPA a 60-day notice of their intent to file suit against the Agency.

Both the petition to review and the 60-day notice are procedural avenues regulated under the Toxic Substances

Control Act (TSCA).

The Agency's Final Risk Evaluation for Asbestos (Part 1) has been widely criticized for "underestimating the dangers of this toxic mineral, despite a presentation of unreasonable risk to human health," according to asbestos.com. "The 60-day intent to sue notice is aimed at pushing the EPA to perform its nondiscretionary duty of addressing the use and disposal of legacy asbestos in that risk evaluation."

"Shaping public policy can be glacially slow. It's imperative for us to exercise our legal options as provided in the TSCA," Linda Reinstein, president and founder of ADAO, told The Mesothelioma Center . "The dangerously incomplete final risk evaluation understates the enormous toll of disease and death for which asbestos is directly responsible."

The EPA report on its risk analysis regarding asbestos was expected in 2020. However, the Agency has split the evaluation into two parts and just published Part 1 in January 2021. The first part addresses chrysotile asbestos, the only type of asbestos that is currently imported, processed, or distributed in the United States. It has four primary uses: asbestos cement, friction materials, roof coatings and cements, and gaskets. The Part 1 risk evaluation addressed 16 conditions of use by consumers and occupational exposure.

"Part 1 failed to address legacy asbestos, which remains in residential and commercial buildings after decades of unbridled use throughout the construction industry," according to Asbestos.com.

"In its August 28, 2020 report, EPA's own independent Science Advisory Committee on Chemicals (SACC) concluded that 'Overall, EPA's environmental and human health risk evaluation for asbestos was not considered adequate and resulted in low confidence in the conclusions,'" according to the ADAO's website.

"The shortcomings of the final asbestos evaluation were underscored in the December 22, 2020 decision by U.S. District Court Judge Edward J. Chen, who ruled EPA has unlawfully failed to use its TSCA authority to obtain basic information on asbestos use and exposure needed for a sound risk evaluation," ADOA says. "Judge Chen ordered EPA to amend its TSCA reporting rules to require submission of this information by industry.

"Despite its limitations, the final risk evaluation does conclude that a number of current asbestos uses present an unreasonable risk of injury to human health. ADAO and its partners support these findings and urge EPA to ban these uses under TSCA in the risk management phase of its work," the organization adds.

Asbestos is heavily regulated and has not been mined in the United States since 2002. Import of asbestos dropped to a record low of only 100 metric tons imported in 2019—the lowest amount imported since records began being kept in 1910, according to Asbestos.com. The previous year, 2018, shows 681 metric tons imported.

The EPA has said Part 2 of its risk evaluation for asbestos is expected midyear 2021.

The latest filings by the ADAO are not the group's first legal challenges regarding the EPA's risk evaluations for asbestos. In a previous lawsuit filed in a California District Court, in December 2020, U.S. District Judge Edward Chen ordered the EPA to improve its data collection on reporting the amount of asbestos and the number of products containing asbestos coming into the United States. The judge also "ruled that the EPA has unlawfully failed to use its TSCA authority to make a sound risk evaluation," say [...]

Bill introduced in Senate to protect firefighters from harmful substances

Dave Kovaleski, Homeland Preparedness News

https://homelandprepnews.com/stories/63016-bill-introduced-in-senate-to-protect-firefighters-from-harmful-substances/

A bipartisan group of U.S. Senators introduced legislation to help protect the health and safety of firefighters and emergency responders from adverse substances.

The Protecting Firefighters from Adverse Substances (PFAS) Act directs federal agencies to develop best practices, training, and educational programs to reduce and prevent exposure to adverse substances, also known as "forever chemicals" because they do not naturally break down. Also, the bill would require guidance to be issued on alternative foams and personal protective equipment that do not contain these adverse substances, also called PFAS. U.S. Senators Lisa Murkowski (R-AK), Tom Carper (D-DE) and Susan Collins (R-ME) are also original cosponsors of the bill.

"Protecting firefighters from harmful exposure to dangerous PFAS chemicals is the least we can do for these heroes who put their lives on the line to keep our communities safe," Sen. Gary Peters, chairman of the Homeland Security and Governmental Affairs Committee, and one of the bill's sponsors. "I am proud to reintroduce this bipartisan bill that will help protect the health and safety of first responders by limiting their exposure to these harmful chemicals in the line of duty."

The bill was co-sponsored by Sens. Dan Sullivan (R-AK), Maggie Hassan (D-NH) and Thom Tillis (R-NC). It was first introduced in the last Congress by Sens. Lisa Murkowski (R-AK), Tom Carper (D-DE) and Susan Collins (R-ME).

"Our brave firefighters face a disproportionate exposure to certain harmful PFAS chemicals as they carry out their duty to their neighbors and communities," Sullivan said. "We need to do more to prioritize the health and well-being of these selfless public servants, and this legislation in an important first step toward limiting PFAS exposure, employing safer practices, and finding responsible alternatives to these chemicals."

Emergency response teams are frequently exposed to harmful per- and polyfluoroalkyl substances (PFAS) in firefighting foams and personal protective equipment. PFAS substances have been linked to a number of health problems, including certain cancers.

"Fire fighters and first responders risk their lives to keep our communities safe, and it is unacceptable that they are regularly exposed to dangerous PFAS chemicals in their firefighting equipment," Hassan said. "I am proud to join in reintroducing this bipartisan legislation to protect the health and safety of our fire fighters and help ensure that they can serve our communities without having to worry about long-term harm from the gear that is supposed to protect them."

The legislation has the support of the International Association of Firefighters, the International Association of Fire Chiefs, and the National Volunteer Fire Council, among other groups.

"Fire fighters have dedicated their lives to protecting others and keeping their communities safe. Unfortunately, these brave men and women are exposed to dangerous 'forever chemicals' while serving their communities, subjecting them to higher risks of cancer and other serious health effects," Harold Schaitberger, general president of the International Association of Fire Fighters, said. "The IAFF supports measures to address these chemicals and commends Senators Peters for his continuous efforts to help protect fire fighters, emergency medical responders, and the communities they serve from unnecessary PFAS exposure."

EPA Allows PBT Rules To Take Effect But Will 'Consider' Future Changes

David LaRoss, Inside TSCA

https://insideepa.com/tsca-news/epa-allows-pbt-rules-take-effect-will-consider-future-changes

EPA is allowing five TSCA risk management rules governing persistent, bioaccumulative and toxic (PBT) chemicals to go into effect as scheduled despite environmentalists' claims that the Trump-era policies are too lenient, although the agency is leaving the door open to revising them in response to public comments or its own look-back.

"EPA is aware of concerns about these rules, including implementation issues, that have been raised by a range of stakeholders and may consider additional measures, approaches, or revisions that build upon the steps taken thus far. The agency is committed to working with all stakeholders to ensure these rules are both protective and practical," the agency says as part of a Feb. 5 release detailing "Updates on Chemical Safety Actions."

The Jan. 6 PBT rules were crafted under a special section of the revised Toxic Substances Control Act (TSCA) that required the agency to quickly regulate chemicals that the agency identified as PBTs without the need for a risk evaluation.

Trump administration officials said the rules set a precedent for how they hoped to write future risk management rules for existing chemicals found to pose unreasonable risks through TSCA's full evaluation process.

The rules cover phenol, isopropylated phosphate, or PIP (3:1), a flame retardant; decabromodiphenyl ether (DecaBDE), another flame retardant; 2,4,6-tris(tert-butyl)phenol (TTBP), used as an additive in fuels, oils and hydraulic fluid; Pentachlorothio-phenol (PCTP), used to make rubber more pliable in industrial uses, and in some consumer items like golf balls; and hexachlorobutadiene (HCBD), used as a solvent and in the manufacture of rubber compounds and lubricants.

Although each rule generally bans the use, manufacture and sale of the chemicals it covers, almost all include several broad use exemptions.

For instance, the PIP 3:1 rule allows continued use of the chemical for purposes including aviation hydraulic fluids, lubricants and grease and auto parts, while adding exemptions for military hydraulic fluids, aerospace parts, cyanoacrylate glue, locomotive and marine air filters, and "sealants and adhesives."

That is despite environmentalists' arguments where they sought blanket bans on the chemicals with limited or no exceptions. "We strongly urge EPA to ban all uses of the five PBT chemicals, subject only to narrow and time-limited exceptions to the extent authorized by TSCA section 6(g)," several groups wrote in joint comments.

Given such concerns, the group Alaska Community Action on Toxics has already sued over the DecaBDE rule, and other cases could follow as the deadline for new litigation will not expire until March 7.

Moreover, President Joe Biden on his first day in office included all five rules on a list of policies for EPA to reexamine and if necessary, withdraw or revise, meaning the agency could choose to rework any of the five on its own initiative -- although resource limits could complicate that plan.

And environmental groups may see tightening the PBT rules as a high priority given the precedent they set for future risk management policies.

In a recent interview with Inside TSCA, former Obama toxics chief Steve Owens said that since TSCA considers PBT chemicals to be the most harmful to health and the environment, establishing broad exemptions

to restrictions on them implies that rules for less-dangerous chemicals will be even more lenient. "If this is what you're going to do with the worst of the worst, then what are you going to do with the others?"

Chemical Evaluations

EPA's Feb. 5 release also notes that it is "moving forward" with the risk management process for the 10 chemicals for which the Trump administration completed TSCA evaluations, but that process will not preclude reviewing and possibly revising the evaluations as environmentalists and Democrats have sought.

Only the first such evaluation, for the solvent methylene chloride, appears on Biden's review list -- along [...]

NAS Panel Eyes PFAS Clinical Testing Guide That Could Aid TSCA Efforts

Diana DiGangi, Inside TSCA

https://insideepa.com/tsca-news/nas-panel-eyes-pfas-clinical-testing-guide-could-aid-tsca-efforts

A new National Academy of Sciences (NAS) panel tasked with crafting guidance on clinical testing for and health effects from per- and polyfluoroalkyl substances (PFAS) exposures could aid federal scientists' effort to evaluate the chemicals' toxicity and exposure data and eventually inform regulations under TSCA and other statutes.

The panel held its first meeting Feb. 4, primarily to hear from representatives of the two agencies seeking the new PFAS guidance -- the Agency for Toxic Substances and Disease Registry (ATSDR) and the National Institute of Environmental Health Sciences (NIEHS), both of which are researching PFAS toxicity and exposures.

The NAS committee will ultimately produce a report for the Centers for Disease Control and Prevention (CDC), ATSDR and NIEHS with "an objective and authoritative review of current evidence regarding human health effects of those PFAS being monitored in the CDC's National Report on Human Exposure to Environmental Chemicals."

That report will assess the strength of evidence for "putative health effects suggested by human studies (including immune response, lipid metabolism, kidney function, thyroid disease, liver disease, glycemic parameters and diabetes, cancer, and fetal and child development)", and advise CDC and ATSDR on whether to revise their clinical guidance for PFAS blood and urine testing.

The NAS' input, combined with CDC and ATSDR's ongoing "multi-site" study of PFAS health effects, could have implications for the regulation of various PFAS under TSCA, especially if it allows regulators to uncover more widespread contamination than is currently known, or to more precisely identify their health impacts.

During his presentation to the committee, ATSDR Director Pat Breysse said the results could be crucial to targeting current and future research given that there are thousands of potential PFAS in the environment, and hundreds in use in commerce.

"We have to be strategic with where we put our efforts," he said, and noted that there are thousands of potential PFAS agents in the environment, with hundreds of those in the marketplace.

"Bottom line for us is that by doing the work that you all will do, I'm hoping that the output is going to give us better direction about understanding where to put our best effort because it is too large a problem for any one of

us to solve," Breysse told the NAS panel.

The ATSDR's expected outcomes for its multi-site study suggest the agency expects the study to back up existing research which indicates a decreased vaccine response in children, an endpoint that Breysse called "most concerning" and which has been a focus of PFAS research during the COVID-19 pandemic.

"While there's evidence that PFAS affects your response to vaccine, there's also evidence that it might actually impact your disease risk," Breysse said. "That's obviously very relevant to the PFAS situation -- are people going to need an additional booster shot, for the COVID vaccine . . . because of PFAS?"

He also raised the possibility that the ongoing research could lead regulators to group PFAS together as a single class. The European Union has already adopted that strategy, and environmentalists are urging EPA to follow the same model in order to craft TSCA rules limiting the chemicals much more quickly.

But Breysse acknowledged that any move in that direction by federal agencies would likely meet resistance. "A lot of folks would debate whether that is fair to do in the context of chemicals like this, that can be very diverse."

Risk Communication

Officials from both ATSDR and NIEHS said that while the agencies' work is generally policy-focused, the widespread nature and high profile of PFAS contamination means new data on the chemicals' properties will also play a role in efforts to inform the public of the risks they face.

Breysse said ATSDR's work is increasingly "enabling people to make personal decisions that are informed by risk," and added that PFAS [...]

Florida environmental groups petition EPA on 'radioactive roads'

Bruce Ritchie, Politico

https://subscriber.politicopro.com/energy/article/2021/02/florida-environmental-groups-petition-epa-on-radioactive-roads-2033862

Several Florida environmental groups on Monday asked the U.S. Environmental Protection Agency to overhaul its regulation of phosphogypsum after the agency agreed in October to allow the waste mining material to be used for road-building.

Key details: The groups, including the Center for Biological Diversity, Waterkeepers Florida and the Sierra Club's state chapter, also asked the agency to review the decision made under the administration of then-President Donald Trump.

In a petition filed with the agency, the groups say the mountains of phosphogypsum waste created by fertilizer production are a "substantial present and future hazard " to human health and the environment.

"EPA to date has abdicated its responsibility to evaluate and minimize the unreasonable risk or ensure protection of human health and the environment through adequate regulation, " the groups said in their petition. The petition requests that the agency begin rulemaking for the safe handling of phosphogypsum and process wastewater and reverse a 1991 agency determination excluding them from regulation as hazardous wastes.

Nick Conger, a spokesperson for the EPA, said the agency had no comment because of pending litigation involving the matter.

Spokespersons for The Fertilizer Institute did not respond to requests for comment.

The backstory: In October, then-EPA Administrator Andrew Wheeler approved the industry group's request to allow phosphogypsum to be used in building roadways.

Phosphogypsum contains radium, which decays to form radon, a cancer-causing, radioactive gas, the EPA said. Studies from The Fertilizer Institute demonstrated that use of phosphogypsum in road construction was safe, avoided the risk of storing the material and represented the most significant effort towards finding an alternative use since the 1990s, EPA said in October.

But in December, Jaclyn Lopez, Florida director of the Center for Biological Diversity, called the decision a "shameless, political favor " to the industry.

“Americans should be outraged that the agency charged with protecting us from harm has green lighted the construction of radioactive roads,” she said.

The petition filed Monday cites a 1990 EPA report to Congress for laying out the threats of phosphogypsum stacks to groundwater and the environment.

Lopez said Monday her group and others have not received a response to their petition filed in December seeking a review of the October decision. Those groups also filed a petition requesting a review by the federal appeals court in Washington. It is still pending.

Joining the petition for rule-making on Monday were Our Santa Fe River and the WWALS Watershed Coalition, with spokespeople for those groups raising concerns about the effects phosphate mining operations and proposed new mining on North Florida rivers. Groups from Texas and Louisiana also joined in the petition.

What's next: The petition filed Monday states that the EPA has 90 days to either grant or deny request for rulemaking. No schedule has been established for the filing of briefs in the court case.

EPA Pesticide Reviews Lack Documents, Routines, Watchdog Finds

Pat Rizzuto, Bloomberg Law

https://news.bloomberglaw.com/environment-and-energy/epa-pesticide-reviews-lack-documents-routines-watchdog-finds?context=search&index=3

The EPA is mostly following proper pesticide review procedures but needs to improve them with routine practices and additional documentation, the agency’s internal watchdog said in a report released Monday.

The Environmental Protection Agency responded by pledging to standardize more pesticide review procedures, following an Office of Inspector General audit of the agency’s risk review practices for nine new pesticides.

The agency’s pesticide office “is mostly adhering to applicable regulations, policies, and procedures,” but needs to document that registrants have met all ecological data requirements, the audit said.

It also recommended the EPA develop a standard operating procedure when it receives a registration request to

help ensure consistent compliance and reviews.

The EPA agreed to adopt both recommendations by Jan. 31, 2022.

Federal dicamba lawsuits are on hold for 60 days

James Ferguson, RFD TV

https://www.rfdtv.com/story/43309114/federal-dicamba-lawsuits-are-on-hold-for-60-days

The legal battles over dicamba are delayed due to President Joe Biden's review of EPA regulations.

DTN broke down the current lawsuit.

The first comes from the National Family Farm Coalition who said that the EPA did not fix court ordered problems when they re-registered dicamba in 2020. They also claim that the EPA did not collect comments on the decision as required.

The second lawsuit comes from the American Soybean Association and the Plains Cotton Growers, and it is claiming the opposite. They argue the 2020 registration is too restrictive and hurts growers' ability to control herbicide resistant weeds.

The federal legal battles are on hold for 60 days, but state level lawsuits may resume sooner.

EPA Petitioned to Protect Communities, Environment From Radioactive Phosphogypsum Stacks, Wastewater

NA, Center for Biological Diversity

https://biologicaldiversity.org/w/news/press-releases/epa-petitioned-to-protect-communities-environment-from-radioactive-phosphogypsum-stacks-wastewater-2021-02-08/

Conservation and public-health groups petitioned the Environmental Protection Agency today to improve federal oversight of the radioactive waste produced by phosphogypsum facilities, including wastewater from phosphoric acid production.

Phosphogypsum and process wastewater from phosphogypsum facilities are currently excluded from certain federal hazardous waste regulations.

Today's petition asks the EPA to begin overseeing the safe treatment, storage and disposal of phosphogypsum and process wastewater, as required under the Resource Conservation and Recovery Act and Toxic Substances Control Act.

"Many people are living near vulnerable mountains of radioactive, toxic waste known as gypsum stacks without even knowing what they are, let alone the risks to environmental and public health they present," said Brooks Armstrong, of People for Protecting Peace River. "People living near phosphogypsum stacks, downstream communities, the wider public and wildlife depend on a drinking water supply which flows under these stacks.

We deserve maximum protection from these gypsum stacks by our EPA. As of now, we are getting virtually none."

Phosphogypsum is the radioactive waste from processing phosphate ore into phosphoric acid, which is predominantly used in fertilizer. Radium-226, found in phosphogypsum, has a 1,600-year radioactive decay half-life. In addition to high concentrations of radioactive materials, phosphogypsum and process wastewater can also contain carcinogens and heavy toxic metals like antimony, arsenic, barium, cadmium, chromium, copper, fluoride, lead, mercury, nickel, silver, sulfur, thallium and zinc.

"These towering stacks of radioactive waste continue to pose an unacceptable risk to the environment and nearby communities," said Jaclyn Lopez, Florida director at the Center for Biological Diversity. "They're prone to massive sinkholes and spills that put our groundwater and recreational waters at risk and threaten public health. The EPA must face the facts and act quickly to avert the next environmental disaster."

For every ton of phosphoric acid produced, the fertilizer industry creates five tons of radioactive phosphogypsum waste, which is stored in mountainous stacks hundreds of acres wide and hundreds of feet tall. More than 1 billion tons of the radioactive waste have already been stored in 25 stacks scattered throughout Florida. The stacks are perched precariously atop the Floridan aquifer, which supplies drinking water to 10 million people.

"EPA knows from decades of mining disasters that storing radioactive and carcinogenic mining waste in enormous open-air piles over groundwater aquifers poses an imminent danger to human health and the environment," said Daniel E. Estrin, general counsel and advocacy director for Waterkeeper Alliance. "These dangerous 'gypstack' eyesores are often hundreds of feet high and cover hundreds of acres of land. We are counting on EPA to do its job and protect people and wildlife from this ticking time bomb before the next foreseeable disaster."

The phosphogypsum stacks are also in Arkansas, Idaho, Illinois, Iowa, Louisiana, Mississippi, Missouri, North Carolina, Texas, Utah and Wyoming. The EPA recently approved using this radioactive waste in road construction.

"Phosphogypsum has the potential to sicken Floridians. To continue down this path for the benefit of fertilizer industry is cruel and misguided," said Michael Roth, president of Our Santa Fe River.

"WWALS opposes expansion of the decades-old moonscape of a phosphate mine in Hamilton County, and another proposed in Union and Bradford Counties," said John S. Quarterman, Suwannee Riverkeeper. "These mines not only suck up massive amounts of water that reduce spring and river flows, they feed ever-growing phosphogypsum stacks with radioactive waste."

Today's petition was filed by Atchafalaya Basinkeeper, Bayou City Waterkeeper, Center for Biological Diversity, The Cherokee Concerned Citizens, Healthy Gulf, [...]

Bayer Spends Billions to Save Essential Tool for Farmers

Angela Logomasini, Competitive Enterprise Institute

https://cei.org/blog/bayer-spends-billions-to-save-essential-tool-for-farmers/

Bayer Agrosciences is spending billions of dollars with the hope of keeping the herbicide known as Roundup on the market despite thousands of lawsuits alleging it causes cancer, particularly non-Hodgkin's lymphoma.

Earlier this week, Bayer agreed to pay out $2 billion—giving up to $200,000 to any new plaintiff who alleges within the next four years that the chemical caused their cancer. This $2 billion offer comes in addition to a $9.6 billion settlement that Bayer committed to last June, which covered more than 100,000 lawsuits.

Bayer maintains its product is safe, and it's good that it wants to keep Roundup on the market. Not only are the cancer claims unfounded, Roundup is an essential tool for farmers in their efforts to produce an affordable food supply for the rest of us.

Still, it will continue to be an uphill battle for Bayer despite these recent settlements. First Bayer must gain approval from U.S. District Court Judge Vince Chhabria for this $2 billion settlement, and it would only cover new claims for four years. It also allows more plaintiffs to file lawsuits before the end of those four years if those plaintiffs want more than the $200,000 maximum. Bayer is also still working on appeals for three cases that made it to trial in which juries awarded plaintiffs millions of dollars.

Obviously, if there was evidence that using products containing the active ingredient in Roundup—glyphosate—caused cancer, removing it from the market would be justified. But all major government safety assessments have determined that glyphosate uses do not pose any significant health risks. That includes reviews conducted by the U.S. Environmental Protection Agency (EPA), the European Food Safety Authority, Health Canada, the United Nations Food and Agriculture Organization, and others. In addition, a collaborative effort between academic and government agencies in the United States, known as the Agricultural Health Study, has been monitoring the health of licensed pesticide applicators (primarily farmers) since 1993 to see if there are connections between pesticide use and cancer rates. With more than 89,000 participants and more than 30 years of data, it has never found an association between glyphosate use and cancer.

All the lawsuits are based on one faulty and incomplete assessment produced by a United Nations-affiliated outfit known as the International Agency for Research on Cancer (IARC). You can read more about that here, here, and here.

Bayer isn't agreeing to these settlements because it has any guilt. Rather it's a business decision because the costs of litigation outweigh paying settlements. Unfortunately, these cases push the narrative that glyphosate causes cancer, leading governments to impose bans and undermining access to the product, a reality that promises to adversely affect us all.

Even the U.S. EPA might eventually ban it given growing pressure from left-of-center green activists in the new administration to ban all sorts of pesticides, including glyphosate. Glyphosate is currently under a registration review at the EPA, which occurs every 15 years to comply with federal pesticide law. Other pesticides and herbicides are also at risk as the new administration moves forward with various reviews.

As a result, many valuable benefits associated with glyphosate and other herbicides are at risk. These products have a major impact in improving agricultural productivity that makes food more plentiful and affordable. For example, glyphosate is used with genetically modified crops that are immune to its herbicidal effects, allowing farmers to control weeds without harming the crops. If it were removed from the market, the adverse impacts on productivity and food prices would be substantial as detailed by academic researchers in the October 2017 issue of the journal GM Crops and Food:

There would be an annual loss of global farm income gains of $6.76 billion and lower levels of global soybean, corn and canola [...]

EPA PFAS Regulations: "PFAS A Priority" Says Incoming Administrator

John Gardella, The National Law Review

https://www.natlawreview.com/article/epa-pfas-regulations-pfas-priority-says-incoming-administrator

On Wednesday, President Joe Biden's pick to lead the Environmental Protection Agency (EPA), Michael Regan, underwent his confirmation hearing. His nomination received largely bi-partisan support, so it is expected that Mr. Regan will be confirmed as the new Administrator of the EPA in the near future. While Mr. Regan was questioned on many topics during his hearing, his statements supported two key points that we have been predicting for several months: (1) that Biden's EPA will place top priority on PFAS and (2) that the EPA's PFAS regulations under the Safe Drinking Water Act are coming – soon. If companies concerned about PFAS issues take one thing away from Mr. Regan's testimony before the confirmation committee, it is that businesses must absolutely prepare now and assess the multitude of ways that their practices (whether intentional / knowing or not) are contributing to PFAS pollution in drinking water sources. Failing to do so could lead to significant fines, cleanup costs, and business interruption headaches.

What Are PFAS and Why Are They a Concern?
Per- and poly-fluoroalkyl substances ("PFAS") are a class of over 7,000 manmade compounds.Chemists at 3M and Dupont developed the initial PFAS chemicals by accident in the 1930s when researching carbon-based chemical reactions. During one such experiment, an unusual coating remained in the testing chamber, which upon further testing was completely resistant to any methods designed to break apart the atoms within the chemical. The material also had the incredible ability to repel oil and water. Dupont later called this substance PFOA (perfluorooctanoic acid), the first PFAS ever invented. After World War II, Dupont commercialized PFOA into the revolutionary product that the company branded "Teflon."

Only a short while later, 3M invented its own PFAS chemical – perfluorooctanesulfonate (PFOS), which they also commercialized and branded "Scotchgard." Within a short period of time, various PFAS chemicals were used in hundreds of products – today, it numbers in the thousands.

The same physical characteristics that make PFAS useful in a plethora of commercial applications, though, also make them highly persistent and mobile in the environment and the human body – hence the nickname, "forever chemicals." While the science is still developing regarding the extent of possible effects on human health, initial research has shown that PFOA and PFOS are capable of causing certain types of cancer, liver and kidney issues, immunological problems, and reproductive and developmental harm.

PFAS Under The Safe Drinking Water Act
We previously predicted that the first PFAS issue likely to receive immediate attention by the Biden-Harris administration is the EPA's regulation of PFAS under the Safe Drinking Water Act (SDWA). The SDWA requires the EPA to publish a Contaminant Candidate List (CCL) every five years and explain why various contaminants are or are not in need of regulation. In February 2020, the EPA included two types of PFAS – PFOA and PFOS – in its CCL, which thereby triggered certain deadlines for the EPA. The EPA must propose a Maximum Contaminant Level (MCL) and a National Primary Drinking Water Regulation (NPDWR) within twenty-four months for PFOA and PFOS. We predict that the Biden-Harris administration's EPA will accelerate this timetable and propose a MCL and NPDWR in 2021. Once the proposals are published, the EPA will then have a maximum of 18 months to publish a final MCL and NPDWR.

On January 19, 2021, a big step forward occurred, albeit without any real media coverage or fanfare, when the EPA announced that it will be taking the final step needed to issue a PFOA and PFOS final regulatory determination under the SDWA. "After evaluating more than 11,000 public comments, the agency is taking the next step to regulate these two PFAS [PFOA and PFOS] under the processes laid out in the Safe Drinking Water Act by issuing final regulatory determinations for PFOA [...]

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